No. 06-592

In the Supreme Court of the United States

KHELLEH KONTEH,

Petitioner,

v.

CHRISTOPHER BELL,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

REPLY BRIEF FOR THE PETITIONER

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REPLY

As the Petition explained, this case presents the same issue pending before the Court in the consolidated cases of *Williams v. Overton*, Case No. 05-7142, *cert. granted*, __ U.S. __, 126 S.Ct. 1463 (2006), and *Jones v. Bock*, Case No. 05-7058, *cert. granted*, __ U.S. ___, 126 S.Ct. 1462 (2006) (argued Oct. 30, 2006). Because the issue is already before the Court, we ask only that the case be held for disposition consistent with the outcome in *Williams* and *Jones*.

The issue here, as in *Williams* and *Jones*, concerns the exhaustion requirement of the Prison Litigation Reform Act, 42 U.S.C. § 1997e ("PLRA"), which requires a prisoner bringing a Section 1983 claim to first exhaust his administrative remedies before suing in court. The specific question is whether exhaustion means "total exhaustion," i.e., whether a lawsuit that includes both exhausted and unexhausted claims may proceed, or whether the presence of any unexhausted claim requires dismissal. Respondent Bell filed such a mixed-claim lawsuit, i.e., he has achieved "partial exhaustion," not "total exhaustion."

In response, inmate Bell does not dispute that this case raises the same partial-exhaustion issue as *Williams* and *Jones*. In fact, Bell does not address the partial-exhaustion issue at all; he does not address the issue's certworthiness or address the merits of the issue. Instead, he merely insists that he properly exhausted his administrative remedies against one defendant, Warden Konteh. See Bell Opp. at 3-4. But he does not address the Sixth Circuit's conclusion that his Section 1983 complaint also contained unexhausted claims against another defendant, Officer Shaffer. See Pet. App. 4a. Thus, as the Sixth Circuit further explained, the presence of the unexhausted claim means that Bell's case raises the partial-exhaustion issue. See Pet. App. 6a.

Consequently, Bell's response offers no sound reason to deny the Petition. Instead, the case should be held for *Williams* and *Jones*, and disposed of accordingly.

CONCLUSION

For the reasons above and in the Petition, the Court should hold this case until the Court issues its decisions in *Williams v. Overton* and *Jones v. Bock*, and it should then dispose of this case accordingly.

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